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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/269,771	05/17/2000	NIELS WENDLAND	4080-29PUS	1574

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/269,771	<b>Applicant(s)</b> WENDLAND, NIELS	
	<b>Examiner</b> Christopher C Pratt	<b>Art Unit</b> 1771	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 7-10 and 12.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_


Continuation of 5. does NOT place the application in condition for allowance because: Applicant has not amended the claims in an attempt to overcome the prior art. Applicant argues that the barrier layer of Anderson teaches away from the claimed invention. Applicant argues that "since the barrier layer protects the decorative layer, there is no motivation for designing the amount and viscosity of the adhesive to prevent penetration of the adhesive to the decorative layer." This argument is not commensurate in scope with the instant rejection. The examiner's motivation has nothing to do with protecting the decorative layer. As set forth in the previous action, optimizing the amount and viscosity of the adhesive to prevent penetration would have been motivated by the desire to avoid needlessly wasting adhesive and thereby reducing the cost of the wallpaper.

Applicant argues that the examiner's statement that adhesives are the most common means of applying wallpaper is speculative. This argument is moot because the cited prior art teaches applying wallpaper with an adhesive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that, contrary to the examiner's assertion, Anderson does not teach that wall coverings and floor coverings, such as carpets, are equivalent. However, Anderson teaches that its invention can be used in both wall coverings and floor coverings. Therefore, prior art analogous to Anderson's invention includes both wall coverings (wallpaper) and floor coverings (carpet). The skilled artisan would have been motivated to consider the teachings of prior art drawn to floor coverings in order to practice Anderson's invention.

Applicant argues that Tillotson is only drawn towards holding two pieces of a laminate together and not towards leaving the adhesive exposed. The examiner reminds applicant that wallpaper is useless if its adhesive is left exposed because its ultimate purpose is to be adhered to a wall. When the wallpaper is applied it becomes a laminate with the wall it is adhered to.



CHERYL A. JUSKA  
PRIMARY EXAMINER